

# House File 595

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1 3 AN ACT  
1 4 RELATING TO CERTAIN VOLUNTARY ANNEXATIONS AND TO INVOLUNTARY  
1 5 ANNEXATIONS AND PROVIDING AN EFFECTIVE DATE.  
1 6  
1 7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
1 8  
1 9 Section 1. Section 368.1, Code 2003, is amended by adding  
1 10 the following new subsection:  
1 11 NEW SUBSECTION. 10A. "Public land" means land owned by  
1 12 the federal government, the state, or a political subdivision  
1 13 of the state.  
1 14 Sec. 2. Section 368.4, Code 2003, is amended to read as  
1 15 follows:  
1 16 368.4 ANNEXING MORATORIUM.  
1 17 A city, following notice and hearing, may by resolution  
1 18 agree with another city or cities to refrain from annexing  
1 19 specifically described territory for a period not to exceed  
1 20 ten years and, following notice and hearing, may by resolution  
1 21 extend the agreement for subsequent periods not to exceed ten  
1 22 years each. Notice of a hearing shall be served by regular  
1 23 mail at least thirty days before the hearing on the city  
1 24 development board, and on the board of supervisors of the  
1 25 county in which the territory is located, ~~and on all persons~~  
~~1 26 owning land within the area subject to the agreement and shall~~  
~~1 27 be published in an official county newspaper in each county~~  
~~1 28 containing a city conducting a hearing regarding the~~  
~~1 29 agreement, in any county within two miles of any such city,~~  
~~1 30 and in an official newspaper of each city conducting a hearing~~  
~~1 31 regarding the agreement.~~ The notice shall include the time  
1 32 and place of the hearing, describe the territory subject to  
1 33 the proposed agreement, and the general terms of the  
1 34 agreement. After passage of a resolution by the cities  
1 35 approving the agreements, a copy of the agreement and a copy  
2 1 of any resolution extending an agreement shall be filed with  
2 2 the city development board within ten days of enactment. If  
2 3 such an agreement is in force, the board shall dismiss a  
2 4 petition or plan which violates the terms of the agreement.  
2 5 Sec. 3. Section 368.7, subsection 1, Code 2003, is amended  
2 6 to read as follows:  
2 7 1. a. All of the owners of land in a territory adjoining  
2 8 a city may apply in writing to the council of the adjoining  
2 9 city requesting annexation of the territory. Territory  
2 10 comprising railway right-of-way or territory comprising not  
2 11 more than twenty percent of the land area may be included in  
2 12 the application without the consent of the owner to avoid  
2 13 creating an island or to create more uniform boundaries ~~if a~~  
~~2 14 copy of the application is mailed by certified mail to the~~  
~~2 15 owner and each affected public utility, at least fourteen~~  
~~2 16 business days prior to any action taken by the city council on~~  
~~2 17 the application. The application must contain a legal~~  
~~2 18 description and a map of the territory showing its location in~~  
~~2 19 relationship to the city. An annexation including territory~~  
~~2 20 comprising not more than twenty percent of the land area~~  
~~2 21 without consent of the property owners is not complete without~~  
~~2 22 approval by four-fifths of the members of the board after a~~  
~~2 23 hearing for all affected property owners and the county.~~  
2 24 Public land may be included in the territory to be annexed.  
2 25 However, the area of the territory that is public land  
2 26 included without the written consent of the agency with  
2 27 jurisdiction over the public land may not be used to determine  
2 28 the percentage of territory that is included with the consent  
2 29 of the owner and without the consent of the owner.  
2 30 b. Prior to notification in paragraph "c", the annexing  
2 31 city shall provide written notice to the board of supervisors  
2 32 and township trustees of each county and township that  
2 33 contains all or a portion of the territory to be annexed. The  
2 34 written notice shall include the same information required in  
2 35 paragraph "c" and shall set a time for a consultation on the  
3 1 proposed annexation between the annexing city and each county  
3 2 and township that contains all or a portion of the territory  
3 3 to be annexed. The consultation shall be held at least  
3 4 fourteen business days before the applications in paragraph  
3 5 "c" are mailed. The governing body of each such county and

3 6 township may designate one of its members to attend the  
3 7 consultation. Each such county and township may make written  
3 8 recommendations for modification to the proposed annexation no  
3 9 later than seven business days following the date of the  
3 10 consultation.

3 11 Not later than thirty days after the consultation, the  
3 12 board of supervisors of each county that contains all or a  
3 13 portion of the territory to be annexed shall, by resolution,  
3 14 state whether or not it supports the application or whether it  
3 15 takes no position in support of or against the application.  
3 16 If there is a comprehensive plan for the county, the board  
3 17 shall take the plan into account when considering its  
3 18 resolution. A copy of the resolution shall be immediately  
3 19 filed with the annexing city and shall be considered by the  
3 20 city council when taking action on the application. The city  
3 21 council shall forward a copy of the resolution to the city  
3 22 development board as part of the city proceedings on the  
3 23 annexation. Failure of a board of supervisors to adopt a  
3 24 resolution shall not delay the proceedings on the application  
3 25 nor shall such failure be considered a deficiency either in  
3 26 the application or in the annexing city's proceedings.

3 27 c. A copy of the application shall be mailed by certified  
3 28 mail to the nonconsenting owner and each affected public  
3 29 utility, at least fourteen business days prior to any action  
3 30 taken by the city council on the application. The application  
3 31 must contain a legal description and a map of the territory  
3 32 showing its location in relationship to the city.

3 33 d. The city shall provide for a public hearing on the  
3 34 application before approving or denying it. The city shall  
3 35 provide written notice at least fourteen business days prior  
4 1 to any action by the city council regarding the application,  
4 2 including a public hearing, by regular mail to the chairperson  
4 3 of the board of supervisors of each county which contains a  
4 4 portion of the territory proposed to be annexed, each public  
4 5 utility which serves the territory proposed to be annexed,  
4 6 each owner of property located within the territory to be  
4 7 annexed who is not a party to the application, and each owner  
4 8 of property ~~which that~~ adjoins the territory to be annexed  
4 9 unless the adjoining property is in a city. The city shall  
4 10 publish notice of the application and public hearing on the  
4 11 application in an official county newspaper in each county  
4 12 which contains a portion of the territory proposed to be  
4 13 annexed. Both the written and published notice shall include  
4 14 the time and place of the public hearing and a legal  
4 15 description of the territory to be annexed. The city may not  
4 16 assess the costs of providing notice as required in this  
4 17 section to the applicants.

4 18 e. An application for annexation under this subsection may  
4 19 be withdrawn by an applicant at any time within three business  
4 20 days after the public hearing unless the application was made  
4 21 pursuant to a written agreement for the extension of city  
4 22 services or unless the right to withdraw the application was  
4 23 specifically identified and waived by the applicant in the  
4 24 application. A landowner who has consented to the annexation  
4 25 may, within three business days after the public hearing,  
4 26 withdraw the landowner's consent to the annexation unless the  
4 27 landowner has entered into a written agreement for extension  
4 28 of city services or unless the right to withdraw consent was  
4 29 specifically identified and waived by the landowner.

4 30 f. An annexation including territory comprising not more  
4 31 than twenty percent of the land area without consent of the  
4 32 property owners is not complete without approval by four=  
4 33 fifths of the members of the city development board after a  
4 34 hearing for all affected property owners and the county. When  
4 35 considering such an annexation application, the board may  
5 1 request that the annexing city provide information on the  
5 2 amount of land located in the annexing city that is currently  
5 3 vacant or undeveloped and whether municipal services are being  
5 4 provided to current residents of the annexing city.

5 5 Sec. 4. Section 368.11, Code 2003, is amended by adding  
5 6 the following new subsection:

5 7 NEW SUBSECTION. 14. In the case of an annexation, a plan  
5 8 for extending municipal services to be provided by the  
5 9 annexing city to the annexed territory within three years of  
5 10 July 1 of the fiscal year in which city taxes are collected  
5 11 against property in the annexed territory.

5 12 Sec. 5. Section 368.11, unnumbered paragraph 5, Code 2003,  
5 13 is amended to read as follows:

5 14 Before a petition for involuntary annexation may be filed,  
5 15 the petitioner shall hold a public meeting on the petition.  
5 16 Notice of the meeting shall be published in an official county

5 17 newspaper in each county which contains a part of the  
5 18 territory at least five days before the date of the public  
5 19 meeting. The mayor of the city proposing to annex the  
5 20 territory, or that person's designee, shall serve as  
5 21 chairperson of the public meeting. The city clerk of the same  
5 22 city or the city clerk's designee shall record the proceedings  
5 23 of the public meeting. Any person attending the meeting may  
5 24 submit written comments and may be heard on the petition. The  
5 25 minutes of the public meeting and all documents submitted at  
5 26 the public meeting shall be forwarded to the county board of  
5 27 supervisors of each county where the territory is located and  
5 28 to the board by the chairperson of the meeting.

5 29 Sec. 6. Section 368.11, Code 2003, is amended by adding  
5 30 the following new unnumbered paragraph:

5 31 NEW UNNUMBERED PARAGRAPH. Within thirty days after  
5 32 receiving notice that a petition for involuntary annexation  
5 33 has been filed with the board, the board of supervisors of  
5 34 each county that contains all or a portion of the territory to  
5 35 be annexed shall, by resolution, state whether or not it  
6 1 supports the petition or whether it takes no position in  
6 2 support of or against the petition. If there is a  
6 3 comprehensive plan for the county, the board shall take the  
6 4 plan into account when considering its resolution. A copy of  
6 5 the resolution shall be immediately filed with the annexing  
6 6 city and with the city development board. Failure of a board  
6 7 of supervisors to adopt a resolution shall not delay the  
6 8 proceedings on the petition nor shall such failure be  
6 9 considered a deficiency either in the petition or in the  
6 10 annexing city's proceedings.

6 11 Sec. 7. Section 368.25, Code 2003, is amended to read as  
6 12 follows:

6 13 368.25 FAILURE TO PROVIDE MUNICIPAL SERVICES.

6 14 Prior to expiration of the three-year period established in  
6 15 section 368.11, subsection 14, the annexing city shall submit

6 16 a report to the board describing the status of the provision  
6 17 of municipal services identified in the plan required in

6 18 section 368.11, subsection 14. If a city fails to provide  
6 19 municipal services, or fails to show substantial and

6 20 continuing progress in the provision of municipal services, to  
6 21 territory involuntarily annexed, according to the plan for

6 22 extending municipal services filed pursuant to section 368.11,  
6 23 subsection 14, within three years after city taxes are imposed

6 24 in the annexed territory the time period specified in that  
6 25 subsection, the city development board shall may initiate

6 26 proceedings to sever the annexed territory from the city. The  
6 27 board shall notify the city of the severance proceedings and

6 28 shall hold a public hearing on the proposed severance. The  
6 29 board shall give notice of the hearing in the same manner as

6 30 notice of a public meeting in section 368.11. The board may  
6 31 order severance of all or a portion of the territory and the

6 32 order to sever is not subject to approval at an election.  
6 33 ~~However, a~~ A city may appeal to request that the board for

6 34 allow up to an additional three years to provide municipal  
6 35 services if good cause is shown. A petition for severance

7 1 filed pursuant to this section shall be filed and acted upon  
7 2 in the same manner as a petition under section 368.11. As an

7 3 alternative to severance of the territory, the board may  
7 4 impose a moratorium on additional annexation by the city until

7 5 the city complies with its plan for extending municipal  
7 6 services. For purposes of this section, "municipal services"

7 7 means services selected by a landowner to be provided by the  
7 8 city, including, but not limited to, water supply, sewage

7 9 disposal, street and road maintenance, and police and fire  
7 10 protection, if the provision of such services is within the

7 11 legal authority of the annexing city included in the plan  
7 12 required by section 368.11, subsection 14, for extending

7 13 municipal services.  
7 14 Sec. 8. NEW SECTION. 368.26 ANNEXATION OF CERTAIN

7 15 PROPERTY == COMPLIANCE WITH LESS STRINGENT REGULATIONS.  
7 16 A city ordinance or regulation that regulates a condition

7 17 or activity occurring on protected farmland or regulates a  
7 18 person who owns and operates protected farmland is

7 19 unenforceable against the owner of the protected farmland for  
7 20 a period of ten years from the effective date of the

7 21 annexation, to the extent the city ordinance or regulation is  
7 22 more stringent than county legislation. Section 335.2 shall

7 23 apply to the protected farmland until the owner of the  
7 24 protected farmland determines that the land will no longer be

7 25 operated as an agricultural operation. Any enforcement  
7 26 activity conducted in violation of this section is void.

7 27 A "condition or activity occurring on protected farmland"

7 28 includes but is not limited to the raising, harvesting,  
7 29 drying, or storage of crops; the marketing of products at  
7 30 roadside stands or farm markets; the creation of noise, odor,  
7 31 dust, or fumes; the production, care, feeding, or housing of  
7 32 animals including but not limited to the construction,  
7 33 operation, or management of an animal feeding operation, an  
7 34 animal feeding operation structure, or aerobic structure, and  
7 35 to the storage, handling, or application of manure or egg  
8 1 washwater; the operation of machinery including but not  
8 2 limited to planting and harvesting equipment, grain dryers,  
8 3 grain handling equipment, and irrigation pumps; ground and  
8 4 aerial seeding and spraying; the application of chemical  
8 5 fertilizers, conditioners, insecticides, pesticides, and  
8 6 herbicides; and the employment and use of labor.

8 7 For the purposes of this section, "protected farmland"  
8 8 means land that is part of a century farm as that term is  
8 9 defined in section 403.17, subsection 10. "County  
8 10 legislation" means any ordinance, motion, resolution, or  
8 11 amendment adopted by a county pursuant to section 331.302.

8 12 Sec. 9. IMMEDIATE EFFECTIVE DATE. This Act, being deemed  
8 13 of immediate importance, takes effect upon enactment.

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CHRISTOPHER C. RANTS  
Speaker of the House

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MARY E. KRAMER  
President of the Senate

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I hereby certify that this bill originated in the House and  
is known as House File 595, Eightieth General Assembly.

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MARGARET THOMSON  
Chief Clerk of the House

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Approved \_\_\_\_\_, 2003

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THOMAS J. VILSACK

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Governor